

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**NATHAN SMITH,**

Petitioner,

v.

**CIVIL ACTION NO.: 3:16-CV-100  
(GROH)**

**\$30,619.85, in rem or quasi in rem,**

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

This matter is before the Court for consideration of a Report and Recommendation (“R&R”) issued by United States Magistrate Judge Michael J. Aloi. Pursuant to this Court’s Local Rules, this action was referred to Magistrate Judge Aloi for submission of an R&R. On September 6, 2016, Magistrate Judge Aloi issued his R&R, recommending this Court dismiss without prejudice the Petitioner’s 28 U.S.C. § 2241 petition.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge’s findings to which objection is made. However, this Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge to which no objections are made. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file objections in a timely manner constitutes a waiver of *de novo* review and a petitioner’s right to appeal this Court’s order. 28 U.S.C. § 636(b)(1)(C); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

In this case, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule 72(b) of the Federal Rules of Civil Procedure, objections to Magistrate Judge Alois R&R were due within fourteen days after being served with a copy of the same. The Petitioner was served with the R&R on September 12, 2016. To date, neither party has filed objections. Accordingly, this Court will review the R&R for clear error.

Upon review, and finding no error, the Court **ORDERS** that Magistrate Judge Alois Report and Recommendation [ECF No. 8] should be, and is, hereby **ADOPTED** for the reasons more fully stated therein. The Court **ORDERS** the Petitioner's 28 U.S.C. § 2241 petition [ECF No. 1] **DISMISSED WITHOUT PREJUDICE**. Additionally, because his claims are improper under § 2241, the Court **DENIES** the Petitioner's Motion to Transfer Case [ECF No. 10].

The Court makes no certificate of appealability determination in this matter.

The Clerk is **DIRECTED** to enter a separate judgment order, remove this case from the Court's active docket and transmit a copy of this Order to the *pro se* Petitioner.

**DATED:** January 27, 2017



GINA M. GROH  
CHIEF UNITED STATES DISTRICT JUDGE